

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD.

SPECIAL CIVIL APPLICATION No 7140 of 1998

with

SP. CIVIL APPLICATIONS No 2077 and 2091 of 1999

For Approval and Signature :

Hon'ble MR. JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the Judgment ?
  2. To be referred to the Reporter or not?
  3. Whether Their Lordships wish to see the fair copy of the Judgment ?
  4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
  5. Whether it is to be circulated to the Civil Judge?

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SHRI GUJARAT PRADESH MUNICIPAL KARMACHARI MAHASANGH  
VERSUS  
RAJKOT MUNICIPAL CORPORATION

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Appearance:

1. Special Civil Application No 7140 of 1998  
MR TR MISHRA for the Petitioner  
MR KV GHADIA for the Respondent
  2. Sp. Civil Applications No 2077 and 2091 of 1999  
MR TR MISHRA for the Petitioner  
MR AK CLERK for the Respondent
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CORAM : MR JUSTICE S.K. KESHOTE

Date of Decision : 24/08/1999

C.A.V. JUDGMENT

1. Rule in special civil application No 2077 of 1999. Mr. A.K. Clerk waives service of rule on behalf of the respondent in special civil application No.2077 of 1999.

2. As in all these three special civil applications, identical issues have been raised by the learned counsel for the petitioners, the same are being taken up for final hearing together and are being disposed of by this common judgment.

3. The facts of this case are being taken up from special civil application No.7140/98.

This petition is preferred by the petitioner, Gujarat Pradesh Municipal Karmachari Mahasangh, Rajkot against the action of the Rajkot Municipal Corporation in not taking the employees working as Clerks in Octroi Department of the erstwhile Raiya Nagar Palika, on account of merging the area of the said Nagar Palika into Rajkot Municipal Corporation under the Government notification dated 17th June, 1998. Before the merger of the erstwhile Raiya Nagar Palika in the Corporation, the petitioner submitted Charter of Demands on 11-2-1998 and 9-3-1998. The conciliation proceedings started on 11-3-1998. On 20-6-1998, the petitioner-Union filed a Misc. Application before the Industrial Tribunal against the termination of the employment of the employees in which interim order passed on 6-7-1998 was extended upto 10-8-1998. The petitioner-Union filed complaint No.18 and 19 of 1998 in Reference I.T. No.105/98 and 104/98 in which interim order was passed, which is still continuing. Learned counsel for the petitioners submitted that the Union has raised the question of regularisation of services of its members who were working with the erstwhile Raiya Nagar Palika. It is the grievance of the petitioner that on the merger of the area of Raiya Nagar Palika, employees were not taken in the employment of Rajkot Municipal Corporation and this petition has been filed.

4. In reply to the special civil application, the respondent has given out that this petition is not maintainable as the petitioner has alternative remedy under the provisions of Industrial Disputes Act, 1947.

It has further been stated that the petitioner already approached to the Industrial Tribunal in respect of the industrial dispute which they are raising in this special civil application and they can raise the same before the appropriate authority under the provisions of Industrial Disputes Act, 1947. It has next been contended that the services of the members of the petitioner-Union were terminated by Raiya Nagar Palika and this petition has been filed by them is wholly misconceived.

5. Learned counsel for the petitioner contended that the resolution of the State Government dated 11-9-1998 is very specific and the members of the petitioner- Union are to be taken in service by the Rajkot Municipal Corporation. In two other petitions, there is slight difference in the fact that the petitioners therein have worked for few days as daily wagers with the Raiya Nagar Palika. It is the say of the respondents therein that the date on which this Municipality has been taken over by the Corporation, the petitioners in these two petitions were not in the employment thereof. Their services were brought to an end. Learned counsel for the petitioners in these two petitions by showing certain documents has tried to emphasize upon that the petitioners were in service of the Raiya Nagar Palika on the day on which the notification dated 17th June, 1998 has been passed and further thereafter they also continued. These documents which have been shown by the learned counsel for the petitioners may be doubtful documents but I am not expressing any final opinion. Be that as it may. It is a case where there are many disputed questions of facts and for resolving thereof, oral and documentary evidence may be necessary and it is correctly contended by the counsel for the respondents that in such matters, only appropriate remedy is to raise an industrial dispute.

6. These are the matters where I do not consider it to be appropriate to express any final opinion on merits. The petitioner- Union has already approached to the Labour court in one petition and the individual petitioners in other petitions have also approached to the Industrial Dispute Redressal Forum. This is clearly borne out from the averments made by the petitioners in para-3 of the special civil application No.2091/99. From reading of para-3 of the petition aforesaid, prima-facie it is also borne out that the services of the petitioners therein were terminated by erstwhile Nagar Palika.

7. Looking to the nature of the case, the facts which are to be gone into and decided and the Union is here which has already raised an industrial dispute for the regularisation of the services of its members and in one case the petitioners also filed Reference against the termination of their services, these are the matters where in respect of their grievance which has been made in these petitions, the petitioners can raise an industrial dispute, which is the only adequate and efficacious remedy.

8. In the result, all these special civil applications are dismissed only on the ground that the petitioners have efficacious alternative statutory remedy available in the matter. Rule discharged. Interim relief, if any, granted by this Court stands vacated. No order as to costs.

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